

351.182 Drug- and alcohol-free status required for miner certification -- Proof -- Costs of testing -- Breath alcohol device at examination site -- Eleven panel urine test.

- (1) All applicants for certification as new miners and all initial applicants for all other certifications provided for in this chapter shall provide proof of drug- and alcohol-free status prior to certification in accordance with the provisions of this section.
- (2) Proof of drug- and alcohol-free status shall be provided in one (1) of two (2) methods:
 - (a) By participation in a drug and alcohol testing program offered by the Office of Mine Safety and Licensing and paid for by the applicant, in accordance with this section and KRS 351.183; or
 - (b) By the submission of drug and alcohol test results from other sources, as provided in KRS 351.183(2).
- (3) If a newly certified miner gains employment in the coal industry, the initial employer shall reimburse the certified miner for the cost of one (1) drug and alcohol test required by this section and KRS 351.183, 351.184, and 351.185.
- (4) If the applicant is currently certified in any category other than that for which he is applying by the Office of Mine Safety and Licensing and the applicant is currently employed in the coal industry, the applicant's employer shall reimburse the applicant for the cost of one (1) drug and alcohol test required by this section and KRS 351.183, 351.184, and 351.185.
- (5) The fee charged to an applicant for the drug and alcohol tests offered by the Office of Mine Safety and Licensing shall not exceed the actual cost of collection, analysis, and medical review officer (MRO) review.
- (6) The Office of Mine Safety and Licensing shall provide, at each site of examinations for the certifications provided for in Chapter 351, a breath alcohol testing device and a person certified in the operation of the breath alcohol testing device. The breath alcohol test shall be administered prior to examination to determine the applicant's alcohol-free status. The Office of Mine Safety and Licensing may satisfy the requirement to furnish an alcohol testing device and certified personnel by:
 - (a) The use of equipment and appropriately certified personnel of the Office of Mine Safety and Licensing;
 - (b) A memorandum of agreement with state or local police agencies for the provision of equipment and appropriately trained personnel at the examination site; or
 - (c) Inclusion of breath alcohol testing as part of the contract to provide drug testing and collection services set out in KRS 351.183(1).
- (7) A breath alcohol concentration of .04 shall be the maximum acceptable level of concentration for participation in the examination and subsequent certification.
- (8) Except for an alternative testing protocol provided for post-accident victims under KRS 352.180(5) to (7), the minimum testing protocol acceptable for the establishment of drug-free status for certification under KRS Chapter 351 shall be

an eleven (11) panel urine test that shall include testing for the following substances:

- (a) Amphetamines;
- (b) Cannabanoids/THC;
- (c) Cocaine;
- (d) Opiates;
- (e) Phencyclidine (PCP);
- (f) Benzodiazepines;
- (g) Propoxyphene;
- (h) Methaqualone;
- (i) Methadone;
- (j) Barbiturates; and
- (k) Synthetic narcotics.

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Legislative Research Commission Note (7/12/2006). 2006 Ky. Acts ch. 241, sec. 2, subsec. (7), provides: "A breath alcohol concentration of four tenths of a percent (.04) shall be the maximum acceptable level of concentration for participation in the examination and subsequent condition." The words "four tenths of a percent" and the parentheses around ".04" were removed during codification to correct a manifest clerical error that occurred in the drafting process. Materials in the bill folder for House Bill 572 (which became 2006 Ky. Acts ch. 241) show that the bill was drafted to be an exact copy of a bill requested and later introduced as Senate Bill 201, the initial proposed draft of which provided: "A breath alcohol concentration of .04 shall be the maximum acceptable level of concentration for participation in the examination(s) and subsequent certification(s)." Materials in the bill folder for Senate Bill 201 indicate that the erroneous phrase was inserted during the drafting process to conform with the rules for cardinal numbers set forth in the Bill Drafting Manual of the Kentucky General Assembly. The Reviser of Statutes has made this correction under the authority of KRS 7.136(1).